



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
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WASHINGTON NAVY YARD DC 20374-5066

IN REPLY REFER TO

JAGINST 1320.1
Code 05

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JAG INSTRUCTION 1320.1

Subj: DETAILING POLICY FOR MILITARY JUSTICE BILLETS

Ref: (a) Uniform Code of Military Justice, 10 U.S.C. §§ 866- 873
(b) JAGINST 1150.2 (series)
(c) JAGINST 5817.1 (series)
(d) JAGINST 1520.1 (series)

1. Purpose. To promulgate policy and guidance to be followed in the course of detailing Navy judge advocates to military justice intensive billets.

2. Scope. This instruction applies to the Office of the Judge Advocate General (OJAG) and to all those who participate in the detailing of Navy judge advocates to billets involving significant military justice responsibilities.

3. Background. Reference (a) establishes military justice as a statutory mission of the Navy JAG Corps. The visibility and complexity of military justice matters continue to present a dynamic and challenging area of practice. The policies contained in this instruction are necessary to develop the military justice knowledge, skills and ability needed to ensure the Judge Advocate General's (JAG) Corps provides the right advice to our clients and to the Navy command structure, regardless of the location or complexity of a pending military justice matter. Reference (b), the Military Justice Litigation Career Track instruction, and reference (c), the Judicial Screening Board instruction, enable the policies set forth in this instruction and should be construed consistently therewith.

4. Policy. It is the policy of the Judge Advocate General (JAG) to assign the best and fully qualified judge advocate to every military justice billet. Assignments must address the needs of the Navy and the JAG Corps. These needs include consideration of the volume and complexity of the military justice work load; the skill, training, experience and pay grade of the officer to be assigned; and the preferences of individual officers. Additional factors include each officer's career progression, including professional development in military

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justice and litigation, the officer's prior performance, prior detailing equities, such as volunteering for hard-to-fill assignments, and the need to ensure that a variety of perspectives and backgrounds are represented in our military justice billets.

a. Introductory Military Justice Assignment. Accessions should be assigned to Region Legal Service Offices, Naval Legal Service Offices, and to those billets within OJAG that require no prior military justice experience. All accessions are fully qualified for such assignments upon successful completion of the Naval Justice School Basic Lawyer Course. Ordinarily, accessions are not to be initially assigned to an appellate counsel billet. Additionally, accessions should not be assigned as an independent duty staff judge advocate (SJA), or as an officer-in-charge of a Naval Legal Service Command branch office or detachment, unless they have other suitable training and experience.

b. Litigation-Intensive Billets

(1) Billets designated as requiring a 1202 graduate education, subspecialty code (P-code) for a Military Justice Litigation Qualified (MJLQ) officer, to the maximum extent feasible, shall be filled by a 1202 P-coded officer. If a 1202 P-coded officer is not available, an officer with significant litigation experience and a military law (1201) subspecialty code or military justice specialist or expert (1202S) subspecialty code may be substituted.

(2) MJLQ litigation specialists and experts shall be employed in accordance with reference (b). Developing and maintaining highly technical and perishable litigation skills requires progressive assignment to trial litigation billets, in which the MJLQ officer will actively litigate courts-martial as lead or assistant counsel. All MJLQ officers should occasionally be detailed to billets outside the litigation career path to ensure a depth of experience beneficial to both the officer and the Navy. A sample career path is provided at enclosure (4) of reference (b).

c. Military Justice-Intensive Billets. Certain SJA billets require a broader military justice experience than intensive litigation billets. These include, but are not limited to, SJAs for Navy Region Commanders. Any billet designated with a 1201 P-code, to the maximum extent feasible, shall be filled by an officer with the requisite education, experience and P-code. If

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such an officer is not available, an officer with significant SJA experience and a 1201 subspecialty code or 1202 S-code may be substituted.

d. Military Justice and Appellate Divisions. Only those officers with previous experience as a trial or defense counsel may be detailed to the Criminal Law Division (Code 20), the Appellate Government Division (Code 45), or the Appellate Defense Division (Code 46). Officers shall be assigned to the Appellate Divisions for a period of three years. Rotation of these officers at their projected rotation date (PRD) should ordinarily be coordinated so as not to reduce their 3-year tour of duty by more than 60 days. Waivers of the 3-year tour length must be approved by the JAG.

e. Judicial Law Clerk Program

(1) The Navy-Marine Corps Court of Criminal Appeals (NMCCA) requires law clerks. Law clerks make the Court more efficient by reducing the number of senior judges required for court service. Service as an appellate law clerk is also a highly valuable litigation experience that enhances a judge advocate's research, writing, and analytical skills, while exposing them to intellectual rigor at the highest levels of advocacy and judicial scholarship. This experience and the development of critical thinking skills are invaluable, not only to those who wish to pursue litigation as a specialty, but also to those who will later serve as SJAs. It also provides a sound basis for service as an appellate counsel.

(2) Second-tour Navy and Marine Corps officers in pay grade O-3 who are designated for assignment to Codes 45 and 46 are eligible for assignment to the Judicial Law Clerk Program. The number of clerks, in addition to the Senior Law Clerk, which is a three-year position for a mid-grade officer, will be determined by the JAG upon recommendation of the Assistant Judge Advocate General (AJAG) (Chief Judge of the Department of the Navy) and the AJAG (Military Justice). Upon completion of one year as a law clerk, the officer will rotate to his or her ultimate assignment as an appellate counsel. Judicial law clerks will not normally be further detailed to serve as an IA or to any temporary additional duty that extends for a period longer than 60 days. Likewise, since these officers are serving only a one-year clerkship, and have a limited follow-on assignment of two years, rotation of these officers will not be altered, absent unusual circumstances, from their original

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projected rotation dates (PRD) by more than 60 days. Departures from these assignment policies must be approved by the JAG.

f. Judges

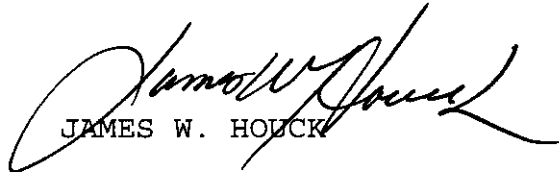
(1) To the maximum extent feasible, trial and appellate military judge billets shall be filled by an officer with the requisite education, experience and, in the case of Navy judge advocates, a 1202 P-code. If such an officer is not available, an officer with significant litigation experience and a 1202 S-code or 1201 P-code and prior experience as a trial judge may be substituted.

(2) Any officer with the requisite litigation experience may apply for certification and appointment as a military judge in accordance with reference (c) and may, thereafter, be detailed to any non-subspecialty coded billet as a military trial or appellate judge. At least one-third of the NMCCA shall be MJLQ officers or former trial judges. The balance of NMCCA judges may be those with an extensive military justice background as SJAs and expertise in resolving pretrial and post-trial matters.

g. Post-Graduate Education. Post-graduate education leading to an LL.M. in Military Law (1201P) or Trial Advocacy (1202P) is governed by references (b) and (d).

5. Exceptions. Deviation from the policies set forth in this instruction may only be authorized by the JAG.

6. Effective date. This instruction is effective immediately.



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